

ADVOCATES FOR COMMUNITY AND ENVIRONMENT

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Post Office Box 1075

El Prado, New Mexico 87529

Phone (575) 758-7202 Fax (575) 758-7203

November 1, 2013

Hon. Robert C. Jones, Chief Judge
United States District Court
For the District of Nevada
400 South Virginia Street
Reno, NV 89501

Re: Proposed Order on Mineral County's Motion for Intervention in Walker River Decree Proceedings (3:73-CV-00128-RCJ-WGC)

Dear Chief Judge Jones:

This letter is being filed with the proposed order granting Mineral County's motion for intervention to explain the omission of a discussion of the Court's view that this case is, to some extent, *in rem* in nature and that this view informed the Court's ruling on intervention. At the September 23, 2013, hearing on this motion, the Court requested I address that issue, in addition to the finding that Mineral County met the four requirements for intervention of right, in a proposed order.

In a slightly more than three-page draft proposed order that was circulated to counsel for the other principal parties I included a short paragraph addressing that issue. However, counsel for the defendants objected to mentioning that issue in the proposed order on the grounds that it is not necessary to the ruling on intervention, has not been briefed or argued, and has unclear implications for the outcome of these proceedings.

In an effort to eliminate those objections, while still respecting what I understood to be the Court's direction to me, I am submitting a proposed order without that language for the Court's consideration together with this letter explaining why I have omitted that issue. In addition, at the request of defendants' counsel I have deleted short one-paragraph discussions of the four elements of the test for intervention of right from the earlier draft proposed order. With those revisions, it is my understanding that defendants' counsel no longer object to the proposed order.

Respectfully submitted,

/s/ Simeon M. Herskovits

Simeon Herskovits

Nevada Bar No. 11155

Counsel for Mineral County